

Remarks

Claims 1-5, 8-16, and 19-24 are pending in this application. Claims 1-20 are rejected, claims 6-7 and 17-18 have been canceled, and claims 21-24 have been added. Applicant respectfully requests reconsideration of the present application in view of the present amendment.

Claim Objections

Claim 17 is objected to because the status identifier should read --Original-- and not "previously presented." Claim 17 has been canceled, making the objection moot.

Claim Rejections - 35 U.S.C. § 112

Claims 1-20 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Without acquiescing in the Examiner's rejection, claim 1 has been amended and no longer recites the "supported directly on a wearer's head" or "reduce a force directly exerted..." language. The "support members" language remains, however, as it is merely a general term that covers both the rods and strings that are used throughout the specification, for example at page 3, lines 18-20. Accordingly, Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 112, first paragraph to claims 1-20.

Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Without acquiescing in the Examiner's rejection, claim one has been amended and no longer contains the language specified by the Examiner. The new language of claim 1 is described on page 2, lines 8-15 and page 3, line 29 to page 4, line 14. Accordingly, Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 112, second paragraph to claims 1-20.

Claim 2 is rejected under 35 U.S.C. § 112, second paragraph, for having insufficient antecedent basis. Claim 2 was changed in the previous office action to be dependent from claim 19, which recited that the support members were formed as rods. Applicant therefore submits that there is sufficient antecedent basis for claim 2 and requests the withdrawal of the rejection under 35 U.S.C. § 112, second paragraph to claim 2.

Claims 8, 15, and 16 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended the rejected claims to clarify that the wearer is wearing the headwear and removed the "when not in use" language. Accordingly, Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 112, second paragraph to claims 8, 15, and 16. Support for the new language in the above claims can be found at page 8, lines 9-14; page 12, lines 4-10; and page 14, lines 1-11.

Claim Rejections - 35 U.S.C. § 102

Claim 1 is rejected under 35 U.S.C. § 102(e) as being anticipated by Ferrara, hereinafter "*Ferrara*," (USPN 7,013,491). Applicant respectfully requests reconsideration in view of the following remarks.

Claim 1, as amended, recites that the support members provide a lifting action on the temple arms and reduce a pressure exerted on the nose of the wearer by the spectacles. The support members are connected to the projecting portion of the headwear. The device of *Ferrara* has support members (4) that are attached to the headwear's body (2), not the projecting portion (6). (*Ferrara* Col. 3, lines 1-5). The support members also do not provide a lifting action on the spectacles and reduce a pressure on the wearer's nose by the spectacles. As can be seen in Fig. 4, when the spectacles are not resting on the brim of the hat/visor they are being pulled back towards the body (2) of the hat. There is no lifting action on the spectacles which would relieve pressure on the wearer's nose, if anything pressure on the nose is increased as the spectacles are being pulled back into the wearer's face.

Claims 1-2, 7-12, and 17-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kiefer, hereinafter "*Kiefer*," (USPN 3,089,145). Applicant respectfully requests reconsideration in view of the following remarks.

Claim 1, as amended, recites that the support members providing a lifting action on the temple arms and reduces the pressure exerted on the nose of the wearer by the spectacles. *Kiefer* clearly teaches a device which supports the headwear (6) on the temple arms of the spectacles (11). (*Kiefer* Col. 2, lines 4-7). By supporting the entire weight of the headwear on the spectacles, the pressure on the nose of the wearer necessarily increases. There is no lifting action done by the rods (7) as required by the claimed invention and the pressure on the wearer's nose is **increased**, not decreased.

In addition, *Kiefer* teaches that there is a spaced relationship between his headwear and the wearer's head. (*Kiefer* Col. 1, lines 32-34). The spacing is for the purpose of ventilation, since *Kiefer's* device is a sun shield. (*Kiefer* Col. 1, lines 21-25). This emphasizes the difference between *Kiefer* and the claimed invention, specifically that the claimed invention is supporting spectacles by transferring at least a portion of their weight to the headwear, whereas *Kiefer* is supporting his headwear on the spectacles. The headwear of the claimed invention must in some way be supported on the wearer's head in order to function, and could not be completely spaced from the head like the headwear of *Kiefer*.

Claim 8, as amended, recites that while the wearer is wearing the headwear, the support members are configured to be foldable against the projecting portion when the free ends of the support members are not attached to the temple arms. The device of *Kiefer* would be rendered useless if the support members were folded under the projecting portion when not connected to the temple arms because the support members are the only thing holding the headwear up. If the support members aren't attached to the temple arms then the device would not stay on the wearer's head.

Claim 20 recites that the support members are formed as strings. The support members (7) of *Kiefer* could not possibly be formed as strings because they support a compressive load, which a string cannot support. The spectacles are holding up the headwear, which is the opposite of the claimed invention.

Claims 2, 9-12, and 19 are dependent on claim 1 and are therefore patentable for at least the same reasons as above. Accordingly, Applicant respectfully submits that claims 1-2, 8-12, and 19-20 are not anticipated by *Kiefer* and request the withdrawal of the rejection under 35 U.S.C. 102(b) to said claims.

Claim Rejections - 35 U.S.C. § 103

Claims 3-6 and 13-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kiefer*. Claims 3-5 and 13-15 are dependent from claim 1 and are therefore patentable for at least the same reasons as above, particularly because *Kiefer* does not provide a lifting action or reduce a pressure on the nose of the wearer, but does exactly the opposite. Furthermore, claim 15 recites that magnetically attractive elements are provided in the projecting portions so that the support members can be held adjacent to the projecting portion when they are not attached to the temple arms. For reasons similar to those given for claim 8 above, the device of *Kiefer* would be rendered useless if the support members were held adjacent to the projecting portion by magnets because the support members would no longer be able to support the headwear.

The Examiner also states that the specification does not indicate why magnets would be desirable. Applicant respectfully disagrees and points to page 10, lines 16-26, which describes how the magnets allow for the use of a thin string as the support member, making it more inconspicuous and therefore more difficult to see. The magnets also facilitate easy attachment and detachment. Accordingly, Applicant respectfully submits that claims 3-5 and 13-15 are patentable over *Kiefer* and request the withdrawal of the rejection under 35 U.S.C. 103(a) to said claims.

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kiefer in view of Schrack, hereinafter "*Schrack*," (USPN 4,768,231). Claim 16 is dependent from claim 1 and is therefore patentable for at least the same reasons as above. The addition of *Schrack* does not remedy the deficiency of *Kiefer* in teaching claim 1. *Schrack* does not teach a support system that provides a lifting action or that reduces the pressure exerted on the nose of the wearer by the spectacles. Accordingly, Applicant respectfully submits that claim 16 is patentable over *Kiefer* in view of *Schrack* and requests the withdrawal of the rejection under 35 U.S.C. 103(a) to claim 16.

New claims 21-24 are dependent from claim 1 and are therefore patentable for at least the same reasons as above. Claim 21 recites that support members in the form of rods can resist lateral movement of the spectacles, as described on page 4, lines 14-20. Claim 22 recites that at least one support member is attached to the projecting portion via a resistive hinge as described on page 8, line 11. Claim 23 recites that the rods are made of brim reed as described on page 8, line 21. Claim 24 recites a support system as described on page 15, line 26-28. None of these limitations are found in any of the cited art.

Conclusion

Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is invited to contact the undersigned at his earliest convenience.

The Petition fee of \$245.00 is being charged to Deposit Account No. 02-3978 via electronic authorization submitted concurrently herewith. The Commissioner is hereby authorized to charge any additional fees or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,

KIN FAI KAM

By /John E. Nemazi/
John E. Nemazi
Reg. No. 30,876
Attorney/Agent for Applicant

Date: January 8, 2010

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351